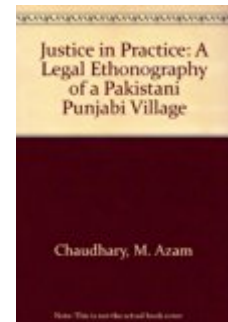




Muhammad Azam Chaudhury. *Justice and Practice: Legal Ethnography of a Pakistani Punjabi Village*. Karachi and Oxford: Oxford University Press, 1999. 258 pp. \$23.95 (cloth), ISBN 978-0-19-579063-4.

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## Custom and Institution in Pakistani Village Law

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This volume fits into a longstanding debate among legal anthropologists as to whether a nation-state's official system of justice or traditional village-based conflict resolution systems are more suited for solving socio-legal issues confronting a rural population. Drawing on extensive ethnographic work conducted in a village between Jhang and Faisalabad (in the province of Punjab, Pakistan), Muhammad Azam Chaudhury (Quaid-i Azam University, Islamabad, Pakistan) asks "how far the two systems differ... or if this difference is limited only to structure and procedure." (pp. 4) Furthermore, the author seeks to ascertain why precisely some groups articulate a preference for one system over the other.

Chaudhury uses a lengthy introduction (pp. 1-40) to set the stage for his three primary chapters. Aside from examining different socio-economic and kinship groups that inhabit the village of Misalpur (a fictional name designed to mask its real identity), the author also engages in a detailed discussion of the various cross-cutting kinship and territorial ties. Leaping onwards, Chaudhury highlights the multiplicity of legal options, both official and traditional, a plaintiff may conceivably exercise towards the resolution of a dispute.

In the first substantial chapter, entitled "Types of Conflicts," (pp. 41-84) Chaudhury seeks to understand and classify the range of justiciable conflicts that arise in a village. His conclusion is that the vast majority of cases revolve around three broad categories: zan (woman), zar

(gold) and zamin (land), with land disputes forming the largest category of cases. According to Chaudhury, disputes are often rendered particularly intractable because they inevitably seem to imbricate widely shared notions of izzat (honor), ghairat (defence of honor/women) and sharam-o-haya (modesty). Using a range of case studies, Chaudhury examines how particular disputes often affect the creation of marital alliances, patron-client relationships and ties between different biradari (clan) groups.

In "The Traditional System of Justice," (pp. 85-120) Chaudhury examines the different constituents of traditional methods of conflict resolution. In so doing, the author analyzes the operation of justice through such modes as the khandan (family), thara (raised platform), baithak (room at the end of a house), haveli (men's house), dera (open socializing space in the fields), panchayat (village council) and religious elites (including Sufi pirs and saints). In the ensuing discussion of the effectiveness of each element, Chaudhury highlights underlying individual preferences for one mode over another and the impact of modernization on traditional structures of authority. Chaudhury also engages in an interesting discussion of the limited impact that Islamization in Pakistan has had on traditional systems of justice.

"The Official Justice System" (pp. 121-177) is the next object of Chaudhury's scrutiny. In this chapter, he does a fine job highlighting the disjuncture between the theoretical and normative operation of the court system. In the

most interesting section of this book, Chaudhury brings to life a range of groups, including judges lawyers, touts, munshis (clerks), police and other personnel, who work in, around and against the nation's official system of justice. Despite his scathing indictment of the official system of justice, however, Chaudhury ultimately seeks to temper his judgment by both blaming it for being "alien to the customs and values of the society" and exonerating it for being a victim of "factors operating in and outside the courts." (pp. 170)

In his Conclusion (pp. 178-189), Chaudhury comments that both the traditional and official system of justice only offer "relative justice" to their participants. Although they may vary in terms of procedure and method, in the final analysis, both systems ultimately serve as weapons to strengthen the powerful and oppress the weak. In an effort to correct any suggestion that the two systems operate on distinct trajectories, Chaudhury pointedly notes that they are in fact "two parts of one system... they may function independently, but in actual practice they work together." (pp. 180) Chaudhury bolters this conclusion by noting that conflicts brought before the panchayat are often simultaneously brought to the attention of the police and the official court system. Resolution of a problem in either venue almost inevitably results in a withdrawal of all cases in the other. In a programmatic twist, Chaudhury concludes his book by suggesting a host of measures that he believes will alleviate the problems of a fair dispensation of justice in both the traditional and official systems in Pakistan.

Although *Justice and Practice* is a carefully researched book with an eye for ethnographic detail, it is also riddled with contradictions. Some of the more important ones have to do with Chaudhury's claim that poor individuals generally avoid the official court system because of the associated financial costs and accompanying corruption (pp. 26). Yet, Chaudhury's ethnographic examples suggest an "addiction to litigation" that is shared by rich and poor alike (pp. 26) in addition to a suggestion that the powerful tend to favor the traditional system whereas the destitute are "more inclined towards using the official system." (pp. 4) Another instance of confusion arises from Chaudhury's claim that "the hold of the biradari is not very strong any more." (pp. 9) Unfortunately, this claim too is belied by the seemingly all-pervasive influence and importance of biradari networks in every aspect of Misalpur's life (see generally pp. 46, 54, 71,72, 76, 94, 95, 96, 97, 98, 109, 136, 158, 186 and 201)

Following on the heels of such inconsistencies is the

fact that Chaudhury's account also leaves unanswered a host of critical questions. For example, to what extent do sporadic land distribution schemes by various state and provincial authorities exacerbate conflict within Misalpur itself? If the majority of conflicts over land are within the ghar (nuclear family), khandan (extended family) or sharika (patrilineage), what strategies are used to resolve such familial disputes? If notions of khandaniness (family of longstanding) in fact preclude upward social mobility through the purchase of land (pp. 46), how can we account for the wholesale efforts by returning expatriate workers or migrants to Pakistan's cities to buy land and raise their social status? If indeed both the official and traditional systems of justice are in terminal decline, as suggested by Chaudhury, what is filling the vacuum left by them? What range of legal choices are open to disempowered and despised religious minorities (specifically Christians) in Misalpur? Why have the inhabitants of Misalpur made a seemingly conscious decision against creating institutions that could carry out the implementation of Islamic laws? Why are individuals with even a modicum of Islamic learning, such as the village imam, rarely asked to mediate or solve disputes? To what extent is it justifiable to look at the police as having a distinct corporate identity and interest that is removed from the community in which it operates? Do women play no role in efforts to attain official or non-official justice, especially in light of the tantalizing suggestion that wives often are the most bitter disputants in intra-familial conflicts having to do with land? (pp. 45)

On a slightly different level, Chaudhury could have done more to tease out a promising discussion about the increasingly intrusive impact of modernity on traditional social hierarchies and also traditional systems of justice. The book would have also been well served if the author had attempted to historicize his study against the backdrop of Ayub Khan and Zia-ul-Haq's radically different approaches to legal reform. Furthermore, occasional orientalist slips, such as describing both Jats and Rajputs as being "ruled by passion" (p. 6), could have been easily avoided.

In the final analysis, however, Chaudhury deserves credit for providing a wealth of information (undoubtedly gathered under often trying circumstances) within an easy narrative style. No doubt, *Justice and Practice* will be of some interest to individuals working in folk law or comparative law, and particularly to those who might study further the interaction between different legal systems and village-level communities in Pakistan.

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